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BOOK REVIEWS.

ORVILLE W. WOOD, *Editor-in-Charge.*

THE CENTENNIAL HISTORY OF THE HARVARD LAW SCHOOL, 1817-1917.
THE HARVARD LAW SCHOOL ASSOCIATION. 1918. pp. x, 411.

On May 17, 1817, Judge Isaac Parker, then professor of law at Harvard College, presented to the Corporation a plan in writing for a law school, which was adopted by the Corporation on the same day. It was to commemorate the one hundredth anniversary of this event that this volume was written and compiled by the Faculty of the Harvard Law School with the assistance of graduates of the school. It is of interest primarily to graduates of the Harvard Law School, but one need not be a Harvard graduate, or indeed a member of the legal profession, to find its pages of absorbing interest. Whether one reads of the early days of the school and of the genial and kindly association of teacher and student, when Judge Story returned annually from the sessions of the United States Supreme Court to take up his lectures as a law teacher and writer, or of the later period when Parker and Washburn were the dominating figures in the school, or, finally, of that epochal change in legal education when Christopher Columbus Langdell was called from his law office in New York City to found a new educational system, the story is a fascinating one. Through it all, like a golden thread in a tapestry, runs the purpose, persistent and unflinching, of the college authorities to win success by adherence to the principles of sound scholarship and scientific method.

The environment for this new educational experiment was a particularly fortunate one. The traditional New England love of learning and the respect for scholarship which have been the most precious inheritance of the New England colleges and universities have exercised an unflinching influence on law study at Cambridge, and were destined ultimately to place training for the bar in this country on a new and higher plane. The school had the benefit of close association with the bar of Massachusetts, which, in the early part of the nineteenth century, could justly claim to be the most scholarly, if not the most distinguished, in the country. Its first professor was Isaac Parker, Chief Justice of the State of Massachusetts, a man of scholarly and distinguished reputation. After an incumbency of twelve years, he retired and was succeeded by Joseph Story, then Chief Justice of the United States, who gave law lectures there for sixteen years, until his death in 1845. Associated with Story during a part of this period was Simon Greenleaf. Story was succeeded by Theophilus Parsons, who, in association with Washburn and Joel Parker, conducted the school until the coming of Langdell in 1870.

This, in brief, was the history of the old school. They were days of small beginnings and rigid conservatism in thought and method. The educational world had not yet begun to sense the inspiration which was being breathed into it by the study of science and the adoption of scientific method of investigation. But even this period was not without its lesson and inspiration. The charm and kindness of Story's personality, his enthusiasm for the school, and his love of the scien-

tific side of the law enriched the lives of a generation of students. When extreme conservatism and lack of vision, with the consequent tendency to make the work of the school formal and stereotyped, threatened its success, as was the case in the time of Isaac Parker and, again, toward the close of the Parsons administration, we find the Harvard governing body exercising its influence, as always, in the direction of sound scholarship and improved and more scientific methods. It is a remarkable, indeed, it is a unique record among American educational institutions.

But it remained for those responsible for the development of the school to take a still more notable and courageous step, in the calling of Langdell to the school in 1870. That the teaching of law was, in itself, a profession in which one might win distinction and render public service without having first won eminence as a judge or a practitioner was a novel idea. But that the student, notwithstanding the fact that he was endowed with capacity to observe and to think, should be required to exercise those faculties in the study of law from original sources was a startling innovation. To such a program the Harvard authorities committed the law school, when, in 1870, they called Langdell, then an obscure lawyer in New York City, to become the dean of the Harvard law faculty. Then, for the first time, the school adopted a definite program of legal study arranged in proper sequence. Definite entrance requirements were established, and the degree was to be awarded only on passing examinations on the subject matter of each course. Then was begun the gradual development of the method of instruction in law known as the "case system".

It has taken the educational and professional world some forty years to recover from the shock of these changes and finally to overcome the lingering doubts as to their wisdom. The history of education affords no like example of a complete and successful revolution in educational methods in a single generation.

The story of it is well known. How Langdell gathered about him a little group of brilliant teachers and scholars, Gray, Ames, Thayer, Keener, and Williston; how Ames and Keener gave to the case system of instruction in law a trend in the direction of intellectual training and development perhaps not originally contemplated by Langdell; how Keener established at Columbia Law School the case system of instruction and, by his scholarly attainment and remarkable powers as a teacher, stimulated and inspired the students of that school and made it a powerful agency in spreading the new educational gospel, resulting in giving to the school new aspirations and a new intellectual vigor; how Ames, as the successor of Langdell, rounded out and completed the work of his predecessor, have become the best known traditions of the remarkable development of legal education in this country, not alone for the graduates of Harvard Law School, but for the students and graduates of other schools which have profited by her example and have built upon the foundation which she so firmly established. Graduates of Harvard Law School and lawyers generally, therefore, will refer to this book to revive their recollections of these traditions, as one renews his acquaintance with old friends. But the book is preeminently one which should be read by all those interested in promoting the enterprise of learning outside the purely professional fields, for in its pages one finds demonstrated the superiority of fidelity to scholarly ideals, as a creative educational force, over those tawdry methods which have too often prevailed in the development

of our educational institutions, in the competitive race for students, and in the endeavor to cover, in the brief period of a university or college course, the entire field of human knowledge.

The book contains a brief account of the more recent history of the school. One could wish that it were more extensive, especially with reference to the development of the fourth year of law study at Harvard and the study of jurisprudence under the direction of Dean Pound. But these topics perhaps fall outside the scope of a book devoted avowedly to history. Photographs and biographical sketches of the teachers and scholars whose lives entered into the history of the school add to its attractiveness and to its historical value.

Harvard Law School may well take pride in the publication of this volume, as a record of achievement and a source of pleasure and profit to both professional and lay readers.

Harlan F. Stone.

DEPARTMENTAL CO-OPERATION IN STATE GOVERNMENT. By ALBERT R. ELLINGWOOD. New York: THE MACMILLAN CO. 1918. pp. 300.

THE DECLARATORY JUDGMENT—A NEEDED PROCEDURAL REFORM. By EDWIN M. BORCHARD. Private Reprint from YALE LAW JOURNAL, November and December, 1918. pp. 78.

Both the above books bear on different phases of the necessity for the elimination of uncertainty in jural relationships in order that one may feel secure that future conduct on his part will be in accord with the law. Despite its ambitious title, Professor Ellingwood's volume deals almost entirely with the advisory opinion. He traces adequately and succinctly the development of the Massachusetts constitutional provision of 1780,—that both the legislature and the governor "shall have authority to require the opinions of the justices of the Supreme Judicial Court upon important questions of law, and upon solemn occasions",—from the English practice, whereby the judges acted as advisors to the king in council and in his executive capacity and to the House of Lords in its judicial and legislative capacities. The old English practice is now continued under the Judicial Committee Act of 1833, which provides the king with legal advice on any point whatsoever from a committee of the Privy Council. Massachusetts, in its adoption of the English custom, was later followed by New Hampshire, Maine, Rhode Island, Missouri, Florida, Colorado, and South Dakota, while Canada and most of the provinces have achieved the same result by legislation, instead of by constitutional amendment. In twelve other states the question of giving extra-judicial advice in the absence of a constitutional provision has arisen, and, though Ohio and Minnesota only have unhesitatingly refused requests for advisory opinions, still the author finds a "pronounced tendency in recent years for the court to put a stop to the giving of extra-judicial advice where it is not required by the Constitution." The United States Supreme Court recorded its opposition at an early date when, in 1793, the judges "deemed it improper to enter the field of politics by declaring their opinions on questions not growing out of the case before them."

In other chapters, Professor Ellingwood makes a painstaking analysis of the four hundred-odd advisory opinion decisions in reference to their propounders and their subject matter. Approximately